

BATHGATE, WEGENER & WOLF

A Professional Corporation

One Airport Road

Lakewood, New Jersey 08701

(732) 363-0666

Attorneys for Plaintiff 1101 CR NB, LLC

1101 CR NB, LLC, a New Jersey Limited
Liability Company,

Plaintiff,

v.

FEED THE CHILDREN, INC., an Oklahoma
Not For Profit Corporation,

Defendant.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No.: 3:10-cv-02811 FLW-TJB

Civil Action

ANSWER AND AFFIRMATIVE DEFENSES
TO COUNTERCLAIM OF DEFENDANT

Plaintiff 1101 CR NB, LLC ("CRNB"), by way of answer to the counterclaim filed by
defendant Feed the Children, Inc. ("FTC") hereby says:

PARTIES

1. CRNB is without knowledge or information sufficient to form a belief as to the
truth of the allegations contained in Paragraph 1.

2. CRNB admits the allegations contained in Paragraph 2.

FACTS

3. CRNB admits the allegations contained in Paragraph 3.

4. The allegations contained in Paragraph 4 are not factual in nature and, therefore,
CRNB makes no answer thereto.

NATURE OF ACTION AND RELIEF SOUGHT

5. The allegations contained in Paragraph 5 are not factual in nature, and, therefore
CRNB makes no answer thereto.

JURISDICTION AND VENUE

6. The allegations contained in Paragraph 6 set forth a legal conclusion to which no answer is required.

7. The allegations contained in Paragraph 7 set forth a legal conclusion to which no answer is required.

CLAIMS FOR RELIEF

8. CRNB admits that an actual and justiciable controversy exists between CRNB and FTC regarding the existence of the implied easement by reservation and the nature, scope, location and dimensions of the implied easement. CRNB denies that the fair market value of the easement is relevant to this controversy and that any payment is due FTC by CRNB.

9. [Paragraph 9 not contained in the Counterclaim].

10. The allegations contained in Paragraph 10 set forth a legal conclusion to which no answer is required.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Counterclaim is barred by the doctrine of equitable estoppel.

THIRD AFFIRMATIVE DEFENSE

The claim for payment by FTC is barred by the statute of frauds.

WHEREFORE, plaintiff 1101 CR NB, LLC, demands judgment in its favor dismissing the Counterclaim against it together with an award of attorney's fees and costs and such other relief as the Court deems proper.

BATHGATE, WEGNER & WOLF, P.C.
Attorneys for the Plaintiff 1101 CR NB, LLC

By: 
MICHAEL M. DiCICCO

DATED: February 1, 2011

CERTIFICATION OF SERVICE

I certify that a copy of the foregoing answer to counterclaim and affirmative defenses was filed and served this 1st day of February 2011 upon the following counsel by ECF electronic filing:

John M. Agnello, Esquire
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
Attorneys for Defendant Feed the Children, Inc.

BATHGATE, WEGENER & WOLF, P.C.
Attorneys for Plaintiff 1101 CR NB, LLC

By: 
MICHAEL M. DiCICCO

DATED: February 1, 2011